

Superseded

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| Subject | Puerto Rico Landfill Initiative | Location | Street Address: City: State: Zip Code: |
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| Department | DEPP-RPB DECA-RCB | | |
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| Issue |
| Many of Puerto Rico's landfills are near capacity, most are out of compliance with federal RCRA and CAA standards, and present an imminent and substantial threat to human health and the environment. Minimal recycling is performed. Although the Puerto Rico Environmental Quality Board (EQB) is approved to implement permitting and enforcement within the RCRA solid waste program, EQB has failed to do so. Likewise, the Puerto Rico Solid Waste Management Authority has not implemented any of the solid waste management plans proposed over the last 15 to 20 years. In addition, the existing PR solid waste regulations are not consistent with Federal requirement. |

Current Status

The Environmental Quality Board (EQB), responsible for permitting and compliance of landfills in Puerto Rico, remains ineffective in its regulatory and enforcement role. Many operating landfills are not permitted, and enforcement action by EQB is typically ineffective. EPA has inspected all but one landfill, and found pervasive noncompliance. Most significantly, few of the landfills have liners or leachate controls, and several are located in karst terrain, exacerbating the risk of ground water contamination.

In February 2010, EQB transmitted to EPA draft proposed revisions to its existing solid waste regulations per our recommendations. EPA has reviewed these proposed revisions for consistency with the federal requirements and found that only minor additional modifications are necessary for federal consistency. A letter requesting that EQB adopt the proposed revisions will be sent in December.

The Puerto Rico Solid Waste Management Authority (SWMA), responsible for planning and infrastructure, has been severely challenged in addressing the mounting capacity, recycling, and compliance issues. Its 2007 Dynamic Itinerary for Infrastructure Projects (DIIP) laid out three management scenarios, none of which has been implemented.

EPA ordered closure of five municipal landfills using RCRA 7003 imminent and substantial endangerment authority, and will issue additional closure orders in FY11 and beyond.

Aguadilla Landfill

Closed, as confirmed by EPA in October 2010.

Florida Landfill:

Florida has invoked dispute resolution regarding the cessation of waste receipt deadline and final closure date. The Region's decision is dependent on the outcome of Vega Baja's request to FEMA to allow modification of its flood plain maps (please see below), due to an offer by Vega Baja to accept Florida's solid waste at below market cost.

Santa Isabel Landfill:

Dispute resolution has been invoked. A letter denying the landfill's request to continue operation and establishing a new closure deadline will be issued in December 2010.

Toa Baja Landfill:

EQB has approved a proposed new cell, and EPA has requested a revised closure plan which is due on December 16, 2010.

Vega Baja Landfill:

Dispute resolution has been invoked. EPA is awaiting FEMA decision on a landfill request for modification to its flood plain map, which would allow a minimum technology cell to be built before making a decision on a request for waste cessation and closure time extension.

Arecibo Landfill

Additionally, a civil /judicial referral to DOJ for the Arecibo Landfill was made in June 2009 for both RCRA and CAA violations, and discussions with Respondents are underway. Respondents have begun providing promised additional information to DOJ and EPA, and a landfill site visit and settlement conference will be held during the week of December 13, 2010.

The third meeting of the Puerto Rico Recycling Partnership is scheduled for December 9, 2010.

Interest from Elected Officials

Concerns were expressed to then Resident Commissioner and current Governor Fortuno by former EPA Regional Administrator Steinberg, and in October 2009 Administrator Jackson met with Governor Fortuno and EQB Chairman Nieves to reiterate these concerns.

Options & Recommendations

Encourage the Governor to ensure that SWMA provides funding to the municipalities to aid landfill closures;

Encourage implementation of the DIIP; and

Consider withdrawal of program approval, which would enable EPA to enforce the federal RCRA landfill requirements directly.

Background

EQB substantively modified its solid waste management regulations in 1997 without notifying EPA as required performed a comparison of the revised regulations against the 1993 regulations upon which Puerto Rico's program approval was based. Region 2 expressed its concerns about the regulatory changes and the potential jeopardy of Puerto Rico's program approval status to EQB and the Puerto Rico Governor's office numerous times since 2006. In February 2010, EPA received a copy of EQB's draft proposed revisions to its existing regulations. EPA has reviewed these regulations for consistency with the federal requirements and found that only minor additional modifications are necessary for federal consistency. A letter requesting that EQB adopt the proposed revisions will be sent in December.

RCRA Orders

EPA issued RCRA Section 7003 Consent Orders to close five landfills: Aguadilla, Florida, Santa Isabel, Toa Baja, and Vega Baja. The Agency also issued three unilateral administrative orders against Respondents who would not sign the Florida, Vega Baja, and Toa Baja Orders. In addition, EPA has issued stipulated penalty letter to several Respondents, and in June 2009 made a civil/judicial referral to DOJ to compel compliance with both RCRA and CAA requirements at the Arecibo landfill.

In addition, Puerto Rico's landfills have not complied with the CAA regulatory requirement to determine whether their emissions trigger the need for an operating permit (however, the CAA regulations do not require a landfill to close to install the equipment required when such triggers are met).

The landfills are also significantly non-compliant with new source performance standards emission guidelines, and the maximum achievable control technology regulations. However, the lack of permits has led to insufficient reporting on design capacity and emissions, rendering EPA unable to determine whether the landfills are required to install certain equipment. There are approximately 33 active and 35 closed municipal solid waste landfills that may be subject to federal CAA regulations. A Notice of Violation and Compliance Order has been drafted for the San Juan landfill - one of five landfills identified as potentially high priority violators - for monitoring, reporting and record keeping violations (the Ponce, Arecibo, Toa Baja, and Carolina landfills were also identified as potential high priority violators). The Ponce and Arecibo landfills have been referred to DOJ for multiple violations, and the CAA requirements for the Toa Baja landfill are being addressed under the existing RCRA order as of December 2010. EPA (CEPD) is currently evaluating the Moca Landfill and Carolina Landfill to determine whether there are any CAA violations.

The Region is preparing to provide landfill air inspection training to CEPD and EQB in January 2011. Additional Puerto Rico landfill CAA inspections will be conducted as part of the training.

Recycling Infrastructure

EPA launched the PR Recycling Partnership in 2010 to facilitate waste reduction and recycling in the Commonwealth. The group had its inaugural meeting in April 2010 and has since conducted monthly conference calls. EPA has worked closely with SWMA to improve its solid waste management infrastructure, and continues to offer assistance through technical review/guidance, grants, workshops and conferences cosponsored with SWMA (such as the 2007 Waste to Energy conference and the 2008 Recycling conference). Most recently, EPA funded the development of the Puerto Rico Materials Exchange Web site - a virtual marketplace that enables users to trade recyclable materials online, and sponsored a training workshop during its launch in April 2009. The goal is to facilitate waste diversion and increase materials reuse and recycling, promote green jobs and economy and reduce greenhouse gas emissions. The Web site currently has 124 members with 342 listings. EPA has been performing additional outreach to increase use of this waste diversion tool.

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